CONFERENCE ON DISARMAMENT

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REPORT OF THE AD HOC COMMITTEE ON PREVENTION OF AN ARMS RACE IN OUTER SPACE

I. INTRODUCTION

1. At its 612th plenary meeting on 13 February 1992, the Conference on Disarmament adopted the following decision (CD/1125):

> In the exercise of its responsibilities as the multilateral disarmament negotiating forum in accordance with paragraph 120 of the Final Document of the first special session of the General Assembly devoted to disarmament, the Conference on Disarmament decides to re-establish an Ad Hoc Committee under item 5 of its agenda entitled "Prevention of an Arms Race in Outer Space".
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> The Conference requests the Ad Hoc Committee, in discharging that responsibility, to continue to examine, and to identify, through substantive and general consideration, issues relevant to the prevention of an arms race in outer space.
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> The Ad Hoc Committee, in carrying out this work, will take into account all existing agreements, existing proposals and future initiatives as well as developments which have taken place since the establishment of the Ad Hoc Committee, in 1985, and report on the progress of its work to the Conference on Disarmament before the end of its 1992 session.

2. In that connection, some delegations made statements regarding the scope of the mandate.

II. ORGANIZATION OF WORK AND DOCUMENTS

3. At its 613th plenary meeting on 20th February 1992, the Conference on Disarmament appointed Ambassador Romulus Neagu of Romania as Chairman of the Ad Hoc Committee. Mr. Vladimir Bogomolov, Political Affairs Officer, United Nations Office for Disarmament Affairs served as the Committee's Secretary.

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4. The Ad Hoc Committee held 13 meetings between 10th March and 11 August 1992.

5. In addition to the documents of the previous sessions [1/] the Ad Hoc Committee had before it the following documents relating to the agenda item submitted to the Conference on Disarmament during the 1992 session:

CD/1142 Letter dated 11 March 1992 from the Permanent Representative of Canada addressed to the Secretary-General of the Conference on Disarmament transmitting Compendia on Outer Space comprising Plenary Statements and Working Papers from 1991 Session of the Conference on Disarmament.

CD/OS/WP.52 Programme of Work

CD/OS/WP.53 Letter dated 15 May 1992 from the Friend of the Chairman of the Ad Hoc Committee on the Prevention of an Arms Race in Outer Space addressed to the Chairman of the Ad Hoc Committee on the Prevention of an Arms Race in Outer Space, forwarding the Working Paper "Table of Statements and Proposals by the members of the Conference on Disarmament relating to Confidence-Building Measures (CBMs) in Outer Space Activities".

CD/OS/WP.54 Working Paper entitled "Confidence-Building Measures in Space Activities", submitted by the Friend of the Chair, Col. G. Diachenko of the Delegation of the Russian Federation.

CD/OS/WP.55 Working Paper entitled "Nuclear Power Systems in Space", submitted by Mr Luciano Anselmo, Expert of the Delegation of Italy.

CD/OS/WP.56 Working Paper entitled "Remarks on keep-out zones in a code of conduct regime for outer space", submitted by Dr Hubert Feigl, Expert of the Delegation of Germany.

III. SUBSTANTIVE WORK DURING THE 1992 SESSION

6. Following consultations on the organization of work, at its first meeting on 10th March 1992, the Ad Hoc Committee adopted the following Programme of Work for the 1992 Session:

"1. Examination and identification of issues relevant to the prevention of an arms race in outer space;

1/ The List of Documents of the previous Sessions may be found in the 1985, 1986, 1987, 1988, 1989, 1990 and 1991 Reports of the Ad Hoc Committee, and in the special report to the Third Special Session of the General Assembly devoted to Disarmament (CD/642, CD/732, CD/787, CD/870, CD/834, CD/956, CD/1039 and CD/1111, respectively).

"2. Existing agreements relevant to the prevention of an arms race in outer space;

"3. Existing proposals and future initiatives on the prevention of an arms race in outer space;

"In carrying out its work with a view to finding and building upon areas of convergence, the Ad Hoc Committee will take into account relevant proposals, initiatives and developments since the establishment of the Committee in 1985 including those presented at the 1991 session of the Conference on Disarmament aimed at enhancing the work of the Ad Hoc Committee as reflected in the work of the Friends of the Chairman, who dealt with the following specific issues in open-ended consultations: Terminological Aspects related to the prevention of an arms race in outer space, issues related to Verification of ASATs and Confidence Building Measures, including improvement of existing and future data bases relating to space activities."

7. With regard to the organization of work, the Ad Hoc Committee agreed that it would give equal treatment to the subjects covered by its mandate and specified in its Programme of Work. Accordingly, the Committee agreed to allocate the same number of meetings to each of those subjects. It was noted that any member wishing to do so may discuss any subject important and relevant to the work of the Committee.

8. The work of the Ad Hoc Committee was governed by the mandate which aims at the Prevention of an Arms Race in Outer Space.

9. The Ad Hoc Committee agreed to continue to enjoy the assistance of the Friends of the Chairman who were appointed by the Chairman to deal with the following issues without prejudice to positions of delegations in open-ended consultations: a) terminological aspects, related to prevention of an arms race in outer space (The Hon. Anthony Monckton, Delegation of the United Kingdom of Great Britain and Northern Ireland); b) issues related to verification of ASATs (antisatellite weapons) (Dr. M. Karem, Delegation of Egypt); c) confidence-building measures in space activities (Col. G. Diachenko, Delegation of the Russian Federation).

10. The Committee benefitted from the scientific and technical contributions of experts from various delegations, who addressed specific issues and initiatives under consideration in the Committee. The subjects addressed

included technical, legal and terminological issues, i.e. peaceful and military uses, protection of satellites, keep-out zones, radioactive materials in outer space and principles governing the re-entry of nuclear power sources in the atmosphere, a need to build a set of principles of CBMs.

A. Examination and identification of issues relevant to the prevention of an arms race in outer space

11. Many delegations considered that, in the post Cold-war period, preventing an arms race in outer space was one of the principal tasks facing the Conference on Disarmament. In this age of high technology and qualitative increases in weapons precision, outer space stood out as an environment vulnerable to militarization. Some delegations stressed that action by the Conference on Disarmament in preventing an arms race in outer space was not only timely, but essential for ensuring that the province of all mankind was indeed explored and used exclusively for peaceful purposes. For those delegations weaponization of outer space was a potential hazard to the space activities of mankind and the peaceful use of outer space. In their view it would be too late to set about drafting a treaty on the prohibition of the weaponization of outer space once such weaponization became a fait accompli.

12. Many delegations expressed their regret that the mandate of the Committee remained the same, and that no substantive change had been added to its programme of work. Some delegations pointed out that the ad hoc Committee should as early as possible conduct substantive negotiations on the conclusion of a comprehensive legal instrument on the prevention of an arms race in outer space.

13. The Group of 21 considered that there was an urgent need to address this important agenda item so as to achieve progress. For this reason, the Group took a flexible position on the question of the mandate and the programme of work although it would have preferred the Committee to work under a negotiating mandate, which would help to concentrate the efforts of the Committee on concrete proposals.

14. In the view of several delegations the most promising directions of work of the Committee appeared to be in the area of CBMs: the development of a code of conduct/rules of the road, the establishment of "keep-out zones", the legal protection of satellites, an agreement on their immunity, the creation of an international trajectography centre, and of a satellite image processing agency.

15. One delegation of the Western Group addressing the subject of space debris indicated that various misconceptions about them had caused some to conclude that an international legal regime on space debris would be needed. In the view of this delegation for such a regime to be established, several legal issues, including the definition of space debris, jurisdiction and control over space debris, and the treatment of liability for damage from orbital debris would be only some of the many legal issues that would need to be resolved. Another delegation of the Western Group presented an expert who gave his own views on the legal background to some terminological issues. The expert referred to other international treaties and concluded that in his view, even though in some contexts "peaceful" meant "non-military", any ambiguity had been clarified by State practice which had not been contradicted in a forceful manner by any state formally protesting military utilisation of space. The expert believed that current military uses of space such as communications, navigation, photo reconnaissance, early warning and weather monitoring all appeared to be lawful.

16. Some delegations referred to the issue of the "Global Protection Against Limited Strikes" (GPALS). One delegation not belonging to any group indicated that although the world had undergone major changes, the research and development of space weapons had not come to an end. The new anti-ballistic missile system was not totally defensive in nature and also had an attacking capability. In its view the development of such a system would inevitably give rise to mutual suspicion among the states and contribute to more tensions in the world. It could also provoke countries with the ability to develop a ballistic missile system to speed up its development. In the opinion of that delegation the implementation of GPALS would surely violate the ABM Treaty, which would have to be either terminated or amended.

B. Existing agreements relevant to the prevention of an arms race in outer space

17. A majority of the members of the Committee pointed out that the legal regime applicable to outer space by itself did not guarantee the prevention of an arms race in outer space. There was a need to consolidate and reinforce that regime and enhance its effectiveness. Existing legal instruments were not satisfactory. Limited in scope, they were utterly inadequate in forestalling an arms race in outer space in that they contained no clear-out provisions on the prohibition of deployment of various types of space weapons,

except that of nuclear weapons and other weapons of mass-destruction. According to some delegations it was therefore necessary to conclude a legal instrument, acceptable to all states, on the de-weaponization of outer space, and on the prohibition of all types of space weaponry.

18. Some delegations of the Western Group maintained that the existing legal regime provided an equitable and balanced response to the need to promote peaceful uses and arms control in outer space.

19. One delegation of the Western Group stated that the legal regime governing outer space could be seen to be wide-ranging and logical. According to that delegation there were no contradictions in its framework, nor was the existing regime full of gaps and holes. It was effective, practical and, most of all, workable. It was not perfect, but its problems would be inherent in any legal regime for arms control in outer space. Any perceived gaps in the legal regime could be satisfied by particular attention to the principles now in existence. Other delegations of the same Group emphasized that what was really in question was compliance with the existing legal regime. They underlined that there were many nations that have not ratified or acceded to the existing international agreements pertaining to outer space and, for this reason, cooperative efforts could not be pursued on this subject in an effective manner.

20. Another delegation of the same group argued that the legal regime could be reinforced by improving state practice under existing conventions. For example, with respect to the Registration Convention, the United Nations Secretariat might devise some standard form of automatic despatch of notices to remind States of their obligations under the Convention. This would strengthen the role of the Secretary-General in the pursuit of greater transparency in outer space activities. The Conference on Disarmament might also recommend to the Security Council that it adopt a resolution both requesting the Secretary-General to send out automatic reminder notices, and setting up a committee of the Council to review periodically any failures of States to register their launches. The delegation suggested that more frequent use of Article IX of the Outer Space Treaty of 1967, might well serve as a consultative mechanism to expand the kind and amount of information to be provided under the Registration Convention. Article XI of the Outer Space Treaty could serve as a basis for requiring data beyond that which is currently routinely provided under the Registration Convention. It would also underline the more active role which the Secretary-General might play and indeed seemed already authorized to play in serving a data-collection function.

C. Existing proposals and future initiatives on the prevention of an arms race in outer space

21. The Group of 21 recalled its proposal for the ad-hoc Committee to have a negotiating mandate. The Group held the position that the Committee should focus on concrete proposals for measures with a view to conducting negotiations for the conclusion of an agreement or agreements, as appropriate, to prevent an arms race in outer space in all its aspects.

22. Some delegations reiterated that the Outer Space Treaty, in the first paragraph of Article IV, left a legal loophole exploited by some space powers to develop a new generation of weapons that could be placed in outer space. In this connection, one delegation recalled its proposal contained in document CD/851 to amend Article IV. It stressed that the proposal was aimed at filling in an important juridical vacuum in the Outer Space Treaty and to prevent the stationing in outer space of weapons other than nuclear and mass destruction weapons.

23. The question of the functioning of the Registration Convention and ways of strengthening the regime established by it, was again addressed by several delegations. Improvements could include the provision of more timely and specific information concerning the function of satellites, including whether the satellite was fulfilling a civilian or military mission.

24. In connection with the legal protection of satellites, some delegations indicated that both the questions of ASAT weapons and of immunity of space devices should be addressed in order to achieve an ASAT prohibition and to guarantee legal immunity for satellites performing definitive peaceful functions. One delegation of the Western Group recalled that it had not found any measure in the field of ASATs that would be verifiable or equitable. The inability to construct a suitable and effective verification system could prevent agreements from being finalized. On the subject of "keep-out zones", it had concluded that the physical characteristics of space and spacecraft motion, coupled with the sheer number of objects that would need to be tracked, would make it difficult, if not impossible, for most space nations to monitor compliance with "keep-out zones". In its view keep-out zones would not be practical for providing protection to satellites. Another delegation indicated that verification and monitoring of observance of such zones would be a delicate task and hence the usefulness of a trajectography tracking

centre. One delegation of the Western Group presented an expert's report on "Keep-Out Zones" as part of a Code of Conduct. "Keep-Out Zones" could play an essential role in a Protection regime which cared for the protection of a State's space activities through agreed and verifiable provisions. The concept of "Keep-Out Zones" in this understanding might be combined with declared or notified pre-launch information, thus contributing essentially to confidence-building measures.

25. A substantial part of the discussions was devoted to confidence-building measures and ensuring greater transparency in space activities. Many delegations were of the view that CBMs was one of the areas where some degree of certainty and convergence of views existed and could form part of a negotiating process with a view to reaching agreements. Several delegations favoured the approach centred on non-interference with non-agressive activities and CBMs which would support that objective.

26. One delegation emphasized that while the CBMs contributed to the positive development in international relations, the discussions on CBMs should not obstruct the creation of a substantive and legally binding treaty banning all space weapons. In its view some of the CBMs already on the table could be considered as verification measures for a future treaty, among them the establishment of an appropriate international supervisory body to inspect objects before they are launched into space.

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27. The discussion of the Friend of the Chair for Terminological Issues centred on two non-papers prepared by him on the phrases "peaceful purposes" and "the militarisation of space". Some delegations of the Western Group thought that basic groundwork on terminology was essential if areas of consensus were to be found. The debate on "peaceful purposes" indicated that some delegations maintained that the concept meant "no military use of space", while other delegations believed it meant "non agressive use of space". One delegation of the Western Group considered that since no delegation questioned the illegality of any aggressive use of outer space, a common denominator existed on that notion. On "militarisation" there was agreement that further work was needed on the definition of a "space weapon". One delegation of the Western Group suggested that it would be useful to concentrate on what was

regarded as being "destabilizing" rather than on trying to define the "acceptable" uses of space.

28. The Friend of the Chair for verification of ASATs held open-ended consultations on the basis of the paper he had prepared (CD/OS/WP.50). In these consultations some delegations insisted that there was no legal instrument that governed activities of States with regard to this system and other delegations of the Western Group recalled that the existing legal regime placed a wide variety of legal restraints on the nature, deployment and use of ASATs. For those delegations the lack of a clear and broad enough definition of antisatellite weapons and their components was a serious obstacle to progress in the preparation of legal instruments. It was suggested that, in spite of their complexities, the problems of definition and verification could be dealt with by the Conference on Disarmament. The question of verification would eventually depend on the type of instrument that was being devised. It was also proposed to explore whether there existed or not, from a strategic or military point of view, any difficulties or any objections ad initio to the preparation of a legal instrument. Some delegations proposed to deal with the subject in a gradual progressive fashion and by confidence-building, transparency and trajectory control measures that would raise the financial and political costs of an aggressive use of Outer Space. One delegation of the Western Group also indicated that ASATs could not be dealt with without having as a legal basis or background an agreement on the concept of aggression. It was the view of the Friend of the Chair that the joint participation of several experts from interested delegations could help to facilitate a better understanding of the problems under consideration and identification of promising areas. One delegation presented a Non-Paper entitled "ASATs: Realities and Prospects".

29. The Friend of the Chair for confidence-building measures in space activities conducted consultations with the interested parties. As the outcome of those consultations, as well as on the basis of the statements and documents previously submitted to the Committee, he drafted an analytical non-paper where he identified five possible areas for the development of CBMs in outer space: a) Strengthening of the 1975 Convention on Registration of Objects Launched into Outer Space: b) Use of satellite monitoring in the interests of the international community; c) Drawing up of "rules of the

road"/a "code of conduct"; d) Inspections of space objects at launching sites; e) Establishment of an international trajectography centre. As a result of further consultations and at the recommendation of several delegations, these areas were grouped under three main headings: a) Measures to promote transparency, openness and predictability; b) Rules for the behaviour of space objects ("Rules of the road"/a "code of conduct" for outer space); c) "Institutional" measures (the establishment of various types of body for the implementation of confidence-building measures: world space organization, international satellite monitoring agency, satellite image processing agency, international space monitoring agency, inspectorate and trajectography centre). The Friend of the Chairman stated that there was wide agreement on the extension of the volume and nature of the information supplied by States on space objects and, perhaps, on a few of the simplest notification measures discussed in the context of "rules of conduct" in outer space. Hence, a study of those topics with the help of technical and scientific experts, would be a promising way of promoting broad consensus.

IV. CONCLUSIONS

30. There continued to be general recognition in the Ad Hoc Committee of the importance and urgency of preventing an arms race in outer space and readiness to contribute to that common objective. The work of the Committee since its establishment in 1985 has contributed to the accomplishment of this task. The debates and the presentations made by experts at this annual session contributed to further identifying and clarifying a number of issues relevant to the prevention of an arms race in outer space. The Committee has also advanced in its efforts to identify areas of convergence suitable for a more structured work. It was recognized once more that the legal régime applicable to outer space by itself did not guarantee the prevention of an arms race in outer space. There was again recognition of the significant role that the legal régime applicable to outer space played in the prevention of an arms race in that environment and of the need to consolidate and reinforce that régime and enhance its effectiveness and of the importance of strict compliance with existing agreements, both bilateral and multilateral. In the course of the deliberations, the common interest of mankind in the exploration and use of outer space for peaceful purposes was acknowledged. In this

context, there was also recognition of the importance of paragraph 80 of the Final Document of the first special session devoted to disarmament, which stated that "in order to prevent an arms race in outer space, further measures should be taken and appropriate international negotiations held in accordance with the spirit of the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and other Celestial Bodies". The Ad Hoc Committee continued its examination of existing and some new proposals aimed at preventing an arms race in outer space and ensuring that its exploration and use will be carried out exclusively for peaceful purposes in the common interest and for the benefit of all mankind.

31. In the context of their contribution to the discussions on all aspects of the mandate and work programme, the importance of the presentations in the Committee relating to confidence-building measures and to greater transparency and openness in space made in the course of the 1992 session was recognized by the Committee. Although cognizant of the various positions on these matters the Committee also recognized the relevance of that discussion to the work of the Committee.

32. The Committee noted the valuable and significant contribution to the discussions of the experts from several delegations and expressed its appreciation to those delegations that provided those contributions. The Committee equally voiced its appreciation of the preliminary work continued by the Friends of the Chairman and their organization of open-ended consultations on such important issues as those related to ASATs, CBMs and terminological aspects of the prevention of an arms race. It viewed the outcome of their efforts as an encouraging development in the process of building upon the areas of convergence. The Ad Hoc Committee recommended to continue such exercises in 1993.

33. It was agreed that substantive work on this agenda item should continue at the next session of the Conference. It was recommended that the Conference on Disarmament re-establish the Ad Hoc Committee on the Prevention of an Arms Race in Outer Space with an adequate mandate at the beginning of the 1993 session, taking into account all relevant factors, including the work of the Committee since 1985.